

February 18, 2015

Annemarie Craft, Bar Counsel
The Florida Bar
651 East Jefferson Street
Tallahassee, Florida 32399

Re: Complaint by Kimberle B. Weeks against Albert J. Hadeed
Florida Bar File Number 2015-30,587 (7B)

Dear Ms. Craft:

There are no records that refute the actions and inappropriate behavior alleged by Attorney Hadeed in the complaints filed. In fact, the records that do exist confirm the validity of the complaint filed against him.

The most damning, incredible piece of evidence in this case is the recording (part of which I have transcribed to include as part of my complaint) that captures precisely what Attorney Hadeed stated and formed the basis of my complaint.

The Canvassing Board duties and responsibilities are outlined in the Florida Election Code. The complaint was filed after what was identified as unacceptable and perhaps illegal actions by Attorney Hadeed tarnishing the image of the Supervisor of Elections Office. Mr. Hadeed's response is replete with a reiteration of my complaint, an attack upon me, and then his interpretation of the law. As Canvassing Board Attorney he is not entitled to vote on measures involving the Canvassing Board though here he influenced those who are authorized by inserting his opinions. An alternate Canvassing Board member is not restricted to act only in the absence of a Board member as the alternate is permitted to be part of the discussions, but restricted from decision making authority. The alternate Canvassing Board member is entitled to influence the Canvassing Board; however, the same is not true for the Canvassing Board Attorney. During the course of Canvassing Board meetings Attorney Hadeed would assert matters as true, without citing any law or statute to support it. This often created a disturbance during Canvassing Board meetings as he would repeatedly challenge me as Supervisor of Elections, the person responsible for the efficiency and integrity of elections. Attorney Hadeed is not exempt from the Sunshine Law just because he is not authorized to vote or act on behalf of the Canvassing Board. In fact,

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the public is not even exempt from the Sunshine Law, as they too have no decision making authority during a public meeting. There are exemptions for judges and attorneys, but there is no exemption for the reasons Attorney Hadeed has stated. Though Attorney Hadeed states that the goal of the Canvassing Board is to fairly and accurately tabulate the votes in elections, and certify the results, that cannot occur when a Canvassing Board member and the County Attorney know the election results are being prematurely released, and whispering them. If Attorney Hadeed intended for the election tabulation to be done in accordance with the law, he should follow the law and be held accountable when he does not. Attorney Hadeed's opinion is that the Board of County Commissioners has no interest adverse to the Canvassing Board or its duties when the behavior and actions demonstrated by County Commissioners and the County Attorney as outlined in the initial complaint prove otherwise.

During the six years that I served as Supervisor of Elections, it was never suggested, requested, or even voted upon for Attorney Hadeed to become the Canvassing Board Attorney until October 17, 2014. He simply arrived and gave himself that title at each previous Canvassing Board meeting. On the sign-in sheet for those meetings, he would identify himself in different ways, but it was perceived that he was the "County Attorney" in the meetings minutes attendance record. It would appear to be a conflict of interest for Attorney Hadeed to represent the Board of County Commissioners and the Canvassing Board when the Canvassing Board consists of County Commissioners (his employers) because he has a contractual allegiance to the Board of County Commissions. It would also clearly appear to be a conflict of interest for the County Attorney to represent the County Canvassing Board when his employers (County Commissioners) are on that board and in most cases on the ballot all the while knowing that this attorney wants to maintain his employment. This is why the Supervisor of Elections relied upon separate counsel at the Division of Elections. Simply because other county's attorneys represent their Canvassing Board does not make it proper, ethical, or legal. The size of the county too is irrelevant. When the County Attorney was called upon for a particular legal issue for the Supervisor of Elections Office, Attorney Hadeed declined to assist, specifically following the 2011 elections where a declaratory judgment was sought against the city of Palm Coast to determine if it had fulfilled the requirements to modify its city Charter.

The Board of County Commissioners has no authority to approve the County Attorney as that is strictly a decision for the Canvassing Board. On October 17, 2014, Attorney Hadeed was elected Canvassing Board Attorney because he represented to the other members of that board that he had been the Canvassing Board Attorney for many years, when he in fact had given himself that title, though never being elected until that date. Attorney Hadeed began his second series of employment with the county in 2007, after the board declined to approve his employment contract during his first employment series in 1998/1999. The Chair of the Canvassing Board, Judge Moore-Stens was informed that the Canvassing Board Attorney is only needed for the benefit of the Supervisor of Elections to ensure that all laws are interpreted and followed correctly.

The Canvassing Board meeting minutes relied upon during the 2014 election season are believed to be those produced by the County Administrator's Assistant Christy Mayer, though the producer of the minutes is not identified. As Supervisor of Elections, I had to retain my own private counsel and it is the option of the Supervisor to retain private counsel. Having lost



confidence and faith in the County Attorney (Mr. Hadeed) over my six years serving as Supervisor of Elections, I began to rely on other attorneys because I perceived the conflict of interest for Mr. Hadeed being the Flagler County Attorney and representing himself as the Canvassing Board Attorney. To maintain transparency, consistency and the established integrity of the elections office I prepared canvassing board meeting minutes during the six years that I served as Supervisor of Elections which too are part of election records maintained within the office.

Though Attorney Hadeed referenced Florida Statute 102.141(1) in his response, he failed to uphold that code section during the 2014 election season as Commissioner Ericksen financially contributed to, and attended a fundraiser event which would thereby make him ineligible to serve on the Canvassing Board. Attorney Hadeed failed to address the fact that County Commission Frank Meeker attempted to “unring the bell” by refunding that \$50 campaign contribution from County Commissioner Charles Ericksen Jr.

Though Attorney Hadeed may not attend campaign events or follow campaign activity, he is expected to address the matters during Canvassing Board meetings when the issue is raised. Additionally, as the self-proclaimed Canvassing Board Attorney he should be called upon to ensure that the Canvassing Board members are in compliance with the law, including those that would exempt a Canvassing Board member from serving on the Canvassing Board because of a political contribution and participation in a fund raising event.

Attorney Hadeed states, “As a matter of practice he advises the commissioners about the qualification requirements of the law and reminds those serving during the election process.” He also states that can be corroborated by the audio the commission meetings when members are appointed or by statements from specific commissioners. As the self-proclaimed Canvassing Board Attorney, Attorney Hadeed should be addressing the entire Canvassing Board, not some of the board members at different meetings. This, to me, illustrates the conflict of interest as he dubs himself the Canvassing Board Attorney though he is not looking out for the interest of the Canvassing Board members and he has demonstrated his allegiance is to the Board of County Commissioners. This conflict created tension with the Canvassing Board, and it was hard to rely upon him. If Canvassing Board business is discussed at a Board of County Commissioners meeting with only some of the Canvassing Board members, that is a violation of the Sunshine Law and here, it would appear that Attorney Hadeed was the conduit for those conversations.

The mailer sent out by candidate Meeker is claimed to have been done inadvertently; however, Attorney Hadeed should have made the Board aware of what transpired and authorize discussion and action to be taken if necessary at a later time. Attorney Hadeed communicated with Canvassing Board member Judge Moore-Stens after the meeting and explained the advice he had provided to Canvassing Board member Commissioner Hanns, all of which should have occurred during the public Canvassing Board meeting where all Board members were present and the discussion would have occurred in the sunshine. This was the very behavior discussed by Attorney Amy Tuck Farrington in her 2010 communication attached to my complaint. Those communications from 2010 were shared with Attorney Hadeed at the time; therefore, he should have avoided discussing them other than within the scheduled Canvassing Board meeting. If Attorney Hadeed is going to discuss Canvassing Board information, it should be with all



Canvassing Board members, not just a few. Commissioner/Candidate Meeker may have mailed a similarly sized card, but he did not do so until weeks after voter's were permitted to vote in person at an early voting site or vote absentee ballot by mail and after thousands of voters had already early voted and when doing so, the return address was of a different size than that of the initial mailing. Attorney Hadeed ignored this fact in his response, specifically that the mailing gave the appearance of being distributed by someone other than the candidate as a return address on the mailings did not simply reflect the candidate's name. Candidate Meeker did not notify voters of the "error", until just days before the election day.

The Election Commission only takes action if it received a formal, notarized complaint, as it does not initiate complaints; therefore, it is an impossible occurrence alleged by Attorney Hadeed that Candidate Meeker could immediately call "the Election Commission" and speak with Ashley Davis with the Division of Elections as Attorney Hadeed has alleged. The Elections Commission and the Division of Elections are two separate offices; therefore a phone call could not be made to the Elections Commission Office for one to speak with Ashley Davis if she is employed by the Division of Elections Office as his response reads. The Division of Elections too would only take action if the allegation involved voter fraud or if a complaint was filed on their required form. The Division of Elections may then forward the complaint if it were deemed necessary to the Florida Department of Law Enforcement or the State Attorney's Office. Though corrective measures were undertaken by Candidate Meeker, action could have been taken against him if a complaint was filed with the Elections Commission. Perhaps it was Attorney Hadeed who requested the active participant opinion.

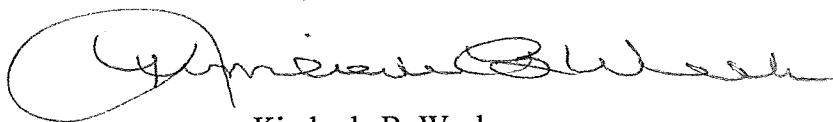
As Supervisor of Elections, I clearly stated in the public meeting that if the mailing was released stating Candidate Meeker received an endorsement from Commissioner Hanns then he received an endorsement from a Canvassing Board member. Commissioner Hanns attempted to deny the endorsement by stating that it was not an endorsement because he had not put the endorsement in writing as was explained in the complaint. The group photo and quoted statement confirmed that it was an endorsement and as such is reflected on the audio from the meeting minutes as well as in the court reporter's transcript. At that time Commissioner Revels was serving as an alternate Canvassing Board member and should not have had a private communication with Attorney Hadeed following the Canvassing Board meeting. All discussions should have taken place in the sunshine. As has been pointed out, Attorney Hadeed would have discussions outside the sunshine, being a conduit between Canvassing Board members.

Matters can be voted upon election night, and in most cases it is necessary to make many decisions that night so that it was a non-issue regarding the removal of County Commissioner George Hanns on the election night. Attorney Hadeed confirmed in his response that the Canvassing Board was a creature of statute. It is believed Attorney Hadeed passed on any review effort as a decision of the Canvassing Board was valid and final as he failed to produce any statutory support that would prevent that action. Attorney Hadeed also failed to realize that the Canvassing Board had no explicit or implied authority to approve him as the Canvassing Board Attorney on October 17, 2014, yet he questions the Board's implied authority to remove a Board member on November 4, 2014.

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Though Attorney Hadeed references only Judge Moore-Stens' quote relating to his interjections, there were many statements made by the public at that meeting criticizing him for those interjections, specifically Dennis McDonald. It was Mr. McDonald's concerns that prompted Judge Moore-Stens to make her comment. I too then commented to refresh Judge Moore-Stens' recollection; all of which is reflected in the court reporters transcript. I submit that the record confirms that Attorney Hadeed failed to meet the request of the Canvassing Board members and that he took meetings in his own direction as occurred in 2010 when it was his desire to approve the meeting minutes and that they be provided in advance of scheduled Canvassing Board meetings. To me, that illustrates that Attorney Hadeed would have had prior communications outside scheduled meetings with Canvassing Board members which a Canvassing Board member would then make and then thereby appear that Mr. Hadeed was providing a legal service. Attorney Hadeed asserts that to disqualify a canvassing board member (County Commissioner George Hanns) from the Canvassing Board would require action by the Chief Judge of the Circuit. Florida Statutes outline the composition of the Canvassing Board and how alternates are appointed, though there is no reference as to how a Canvassing Board member is removed. Attorney Hadeed states that the Department of State, General Counsel's Office, Deputy General Counsel Jordan Jones provided advice; however, the citizen who provided the complaint to the Canvassing Board did so by an email approximately 30 minutes before the scheduled Canvassing Board meeting. That citizen admitted during the meeting that she emailed it to Board members and that it was not a full record of what she distributed during the Canvassing Board meeting. Attorney Hadeed does not provide any documentation of the communication between himself and Attorney Jordan Jones; therefore, it would appear to be self-serving hearsay. In that meeting I agreed that the Canvassing Board had no authority to take action on that citizen's complaint, not that it should be noted within the conduct of elections. Attorney Hadeed advised the Canvassing Board not to take up the challenge of the candidate's election based on the citizen's complaint, though this does not explain why he prompted this citizen complaint to be documented on the Conduct of Elections report that two County Commissioners were replaced or removed during the 2014 General Election, and why he did not address the issue of County Commissioner/Alternate Canvassing Board member Barbara Revels refusal of signing the required Canvassing Board Report, in the required field, which may be violation of the law and another example of Attorney Hadeed's allegiance to the members of the Board of County Commission.

Very truly,



Kimberle B. Weeks

cc: Albert Hadeed, Esquire
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